

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANTOINE DESHAWN BARNES,

Petitioner,

v.

ROSEMARY OROZCO, et al.,

Respondents.

Case No. [21-cv-04439-WHO](#) (PR)


ORDER OF DISMISSAL

This federal action was filed as a 28 U.S.C. § 2254 petition for writ of habeas corpus, that is, as a challenge to the lawfulness or duration of petitioner Antoine Deshawn Barnes's incarceration. A review of the petition, however, shows that Barnes asks to have a television journalist arrested, investigated, and her property seized and searched. Because success on such a request will not affect the length of his incarceration, his claims are not the proper subject of a habeas action. *See Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (habeas corpus action proper mechanism for challenging "legality or duration" of confinement). In an appropriate case a habeas petition may be construed as a complaint under 42 U.S.C. § 1983. *Wilwording v. Swenson*, 404 U.S. 249, 251 (1971). However, this is not such a case. The persons named as respondents are not state actors, and therefore are not liable under § 1983. *Gomez v. Toledo*, 446 U.S. 635, 640 (1980).

Accordingly, this federal habeas action is DISMISSED. The Clerk shall enter judgment in favor of respondents and close the file.

IT IS SO ORDERED.

Dated: July 21, 2021


WILLIAM H. ORRICK
United States District Judge